

REMARKS

By the present amendment, claim 1 has been amended, in step (A), to replace “with a parameter of a previously set” by “using a predetermined peak interval as a parameter”; in step (C), by adding the term “subsequent” before “peak interval” and “most recent” before “sequence determination”; in step (D), by replacing “final data” by “a final point of the data,” “precedently” by “most recently,” and “with a parameter of a precedently obtained peak interval” by “using the subsequent peak interval as a parameter”; in step (E), “the ~~second or later~~ waveform shaping” by “the waveform shaping in step (D),” and “precedently” by “most recently”; and in the wherein clause of step (E), “until data disappear” by “until all data has been analyzed.”

It is submitted that these modifications are language clarification for which support is immediately derived in the original application from the described and illustrated method as understood by a person of the art, in particular based on Figs. 2-3 and corresponding text.

Claims 1-3 are pending in the present application. Independent claim 1, and claims 2 and 3 dependent directly or indirectly thereon, are directed to a method of determining a base sequence for nucleic acid.

In the Office Action, claim 1 is rejected under 35 U.S.C. 112, second paragraph, as indefinite. It is alleged that, in step (A), (i) the expression “with a parameter” is unclear as to whether the parameter is or uses peak interval and whether the peak interval is migration speed, and (ii) the expression “previously set peak interval” is also unclear as to when the peak interval was set; in step (D), the expressions “final data” and “returning by L points from final data” are unclear as to what the final data is (lack of antecedent basis) and where the return starts and ends; and in step (E), (i) the expression “precedently subjected” lacks precision as to which sequence was determined and when, that the positional relationship between the P points and the M points is

unclear, and that the “N points subjected to second or later waveform shaping” suggest that the same N points are subjected to several waveform shapings, and (ii) in the “wherein” clause of step (E), the expression “until data disappear” is unclear because no data is eliminated.

Reconsideration and withdrawal of the rejection is respectfully requested. The points raised in the Office Action have been addressed as follows.

Regarding step (A), claim 1 has been amended to recite “using a predetermined peak interval as a parameter” in step (A) to clarify that (i) the parameter is the peak interval, as suggested in the Office Action, and (ii) the peak interval in step (A) is predetermined. It is submitted that a person of ordinary skill in the art would have an immediate understanding of the term “predetermined” as “previously set”, which is conventional in the art. In addition, steps (C) and (D) have been amended accordingly by reciting “a subsequent peak interval” in step (C) and “using the subsequent peak interval as a parameter” in step (D), to clarify that the peak interval in step (C) is subsequently set during step (C) of the claimed method, and is used in the waveform shaping of step (D).

Further, regarding step (D), the expression “final data” has been replaced by “a final point of the data”, to clarify that “final data” does not mean that the data is necessarily an end result of the claimed method, but that the term “final” characterizes the last point of the data of P or M points from which the returning count of L points starts.

Still further, regarding step (E), the expression “precedently subjected” has been replaced by “most recently subjected”, to clarify that the “precedent” sequence determination refers to the last sequence determination step. Further, the same clarification has been provided in steps (C) and (D). In other words, the terminology makes clear that, in the first performance of steps (C)-(D)-(E), the sequence determination which is being referred to is that of step (B), and in

subsequent performance of steps (C)-(D)-(E), the sequence determination which is being referred to is that of the preceding step (E). In addition, step (E) now recites that the “second or later” waveform shaping is that of step (D), to clarify that the data of N points in step (E) is the same that was subjected to waveform shaping in step (D). It is submitted that the term “connected” in step (E) is a term of art in the area of sequence analysis, so that it would be immediately understood by a person of ordinary skill in the art that “connected” is coextensive in meaning to “contiguous” as understood in the Office Action.

Finally, in step (E), the expression “until data disappear” in the “wherein” clause has been replaced by “until all data has been analyzed” to clarify that “disappear” in this context means the end of the analysis process.

In view of the above, it is submitted that the rejection should be withdrawn.

In conclusion, the invention as presently claimed is patentable. It is believed that the claims are in allowable condition and a notice to that effect is earnestly requested.

In the event there is, in the Examiner's opinion, any outstanding issue and such issue may be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of the response period. Please charge the fee for such extension and any other fees which may be required to our Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Nicolas E. Seckel
Attorney for Applicants
Reg. No. 44,373

Atty. Docket No.: 011532

Customer No.: 38834

1250 Connecticut Avenue NW Suite 700

Washington, D.C. 20036

Tel: (202) 822-1100

Fax: (202) 822-1111

NES:rep